IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7516 OF 2005

Janubai Devi Devasthan Trust
Charitable Trust and Ors. ...Petitioner
vs.
The City of Pune Municipal....Respondents

Chandana S. Radia for the petitioner.

Mr. V.G. Mujumdar for the respondent.

CORAM: S.U. KAMDAR, J.

DATE : 25th November, 2005.

P.C. :

1. The present petition is challenging the order passed by the 3rd Ad-hoc Additional District Judge, Pune. The learned appellate court has set aside the order passed by the trial court granting injunction against the respondent/defendant from carrying on any construction on the suit property.

2. I find that there is an error apparent on the face of the order passed by the court dated 29.5.2005. Prima-facie I am of the opinion that the respondent/defendant is not entitled to carry on construction because he is not able to show any right in respect thereof. Further in my opinion the construction on the property would change and alter the status of the property and such an order could not have been granted at the interlocutory stage and the appeal court ought not to have been interfered with the order passed by the trial court. In that light of the matter I set aside the order dated 29.9.2005 passed by the Appellate court and restore the order dated 29.4.2005 passed by the Trial Court in Regular Civil Suit No. 294 of 2005. However looking at the facts of the case where a proposal is put forward for construction of a school on the said plot of land, in my opinion it is necessary that the hearing of the suit should be expedited.

3. In view thereof I direct Civil Judge, J.D. (PMC), Pune to expedite the hearing of suit

No. 294 of 2005 and the learned Judge is directed to dispose off the said suit on or before 31.3.2006. Petition made absolute accordingly. No order as to costs.

sd/-

****